

# **CITIES AND TOWNS BULLETIN**

## **AND UNIFORM COMPLIANCE GUIDELINES ISSUED BY STATE BOARD OF ACCOUNTS**

JUNE 2003

### **2003 LAWS AFFECTING CITIES AND TOWNS**

The following is a listing of laws enacted by the General Assembly that are related to cities, towns and municipally owned utilities. This is not intended to be an expression of a legal opinion. If you have any questions regarding legal interpretation, please consult your city or town attorney. We have listed the laws in public law order sequence and the references are to the Indiana Code.

**PUBLIC LAW 1 – HOUSE ENROLLED ACT 1167 – EFFECTIVE VARIOUS DATES**  
TECHNICAL CORRECTIONS – Makes corrections to several sections of the Indiana Code.

**PUBLIC LAW 2 – SENATE ENROLLED ACT 257 – EFFECTIVE JULY 1, 2003**  
TITLE 10 RECODIFICATION – Reorganizes the laws dealing with civil defense, emergency management, war memorials, and military leave.

**PUBLIC LAW 8 – HOUSE ENROLLED ACT 1059 – EFFECTIVE JULY 1, 2003**  
FIRE LANE RESTRICTIONS – Adds IC 9-13-2-62.5 and IC 9-21-16-5.7-Amends IC 9-21-16-5.5  
Defines a fire lane as an area that is located within twelve (12) feet of a building that is occupied for commercial, professional, religious or any other purpose and is not a building that is intended for use as a dwelling for one (1) or two (2) families.  
A fire lane also can include a sidewalk adjacent to or attached to a building or an alley. Requires fire lanes to be marked with words “ No Parking Fire Lane” in white letters at least four (4) inches in width. Requires local ordinances to not conflict with State Law. Allows a law enforcement agency to appoint volunteers to issue summons and complaints for violations of parking in a fire lane.

**PUBLIC LAW 9 – HOUSE ENROLLED ACT 1077 – EFFECTIVE JULY 1, 2003**  
LAW ENFORCEMENT, SEARCH AND RESCUE, AND SERVICE ANIMALS – Adds IC 35-46-3-11.3 – Amends IC 35-46-3-4.5 and IC 35-46-3-11.5- Makes it a Class D Felony to cause injury or death to law enforcement, search and rescue, and service animals.

**PUBLIC LAW 12 – HOUSE ENROLLED ACT 1282 – EFFECTIVE JULY 1, 2003**  
TINTED WINDSHIELDS – Amends IC 9-19-19-4 and IC 9-19-19-7 – Adds IC 9-19-19-8- States that a person may not tint or otherwise cover or treat with suncreening the windshield, side wing, side window that is part of the front door, or rear back window, so that the occupants of a vehicle cannot be easily identified or recognized through that window unless the windows are treated for medical reasons. Makes it a Class A infraction for a violation of such law.

**PUBLIC LAW 21 – SENATE ENROLLED ACT 240 – EFFECTIVE JULY 1, 2003**  
LOW SPEED VEHICLES – Adds IC 9-13-2-94.5, IC 9-21-5-8.5 and IC 9-21-9-0.5- Amends IC 9-13-2-97, IC 9-13-2-123, IC 9-17-1-1, IC 9-17-8-3, IC 9-21-1-3 and IC 9-21-4-7- Allows certain vehicles with a maximum speed of thirty-five (35) miles per hour to be operated on streets and highways. Allows cities and towns to regulate or prohibit the operation of such vehicles on city and town streets.

PUBLIC LAW 28 – HOUSE ENROLLED ACT 1724 – EFFECTIVE JULY 1, 2003  
INFORMATION TECHNOLOGY PURCHASES – STATE INFORMATION TECHNOLOGY  
OVERSIGHT COMMISSION – Amends IC 4-23-16-12 – Adds at least three (3) members  
representing local units of government to the commission. States that the technology accessibility  
standards developed by the commission apply to cities and towns.

PUBLIC LAW 31 – HOUSE ENROLLED ACT 1133 – EFFECTIVE JULY 1, 2003  
NORTHWEST INDIANA TRANSPORTATION STUDY COMMISSION–NONCODE  
Extends the expiration date of the commission to November 1, 2005.

PUBLIC LAW 33 – HOUSE ENROLLED ACT 1645 – EFFECTIVE APRIL 15, 2003  
EVANSVILLE STATE HOSPITAL PROPERTY - Amends IC 36-1-4-19 and NONCODE sections  
of Public Law 195-2001 – Requires certain hospital land to be conveyed to the City of Evansville.

PUBLIC LAW 35 – HOUSE ENROLLED ACT 1078 – EFFECTIVE JULY 1, 2003  
OPEN DOOR LAW – COLLECTIVE BARGAINING AGENTS – Amends IC 5-14-1.5-2 – States  
that an agent or agents appointed by the governing body to conduct collective bargaining on  
behalf of the governing body are not subject to the Open Door Law.

PUBLIC LAW 36 – HOUSE ENROLLED ACT 1083 – EFFECTIVE JULY 1, 2003  
DECEPTIVE COMMERCIAL ELECTRONIC MAIL – Adds IC 24-5-22 and IC 34-30-2-96.5-  
Provides for the regulation of deceptive e-mail.

PUBLIC LAW 43 – HOUSE ENROLLED ACT 1397 – EFFECTIVE JULY 1, 2003  
RETAINAGE ON PUBLIC WORKS PROJECTS OVER \$100,000 - Amends IC 36-1-12-14- States  
that a board that enters into a contract for public work, and a contractor who subcontracts parts of  
that contract, shall include in their respective contracts provisions for the retainage of portions of  
payments by the board to contractors, by contractors to subcontractors, and for the payment of  
subcontractors. At the discretion of the contractor, the retainage shall be held by the board or  
shall be placed in an escrow account with a bank, savings and loan institution, or the state as  
the escrow agent. The escrow agent shall be selected by mutual agreement between the board and  
contractor or contractor and subcontractor under a written agreement among the bank or savings  
and loan institution and:

- (1) the board and the contractor; or
- (2) the subcontractor and the contractor.

The board shall not be required to pay interest on the amounts of retainage that it holds.

The board or escrow agent shall pay the contractor within sixth-one (61) days after the  
date of substantial completion. Payment by the escrow agent shall include all escrowed principal  
and escrowed income. If within sixth-one (61) days after the date of substantial completion there  
remain uncompleted minor items, an amount equal to two hundred percent (200%) of the value of  
each item as determined by the architect-engineer shall be withheld until the item is completed.  
Required warranties begin not later than the date of substantial completion.

Actions against a surety on a performance bond must be brought within one (1) year after the  
date of the board's final settlement with the contractor.

PUBLIC LAW 47 – SENATE ENROLLED ACT 141 – EFFECTIVE JULY 1, 2003  
PERF BENEFITS – DIRECT DEPOSIT – Adds IC 5-10.2-4-1.2 and IC 5-10.2-4-1.4-Requires  
PERF to furnish to a member or a beneficiary who receives monthly benefits by direct deposit a  
written notice before each change in the amount of the member's or beneficiary's benefit; or once  
every twelve (12) months, if the member's or beneficiary's benefit amount does not change. A  
written notice showing the member's or beneficiary's benefit amount, including any cost of living  
increase or other adjustment to the benefit amount, and a summary of the member's or bene-  
ficiary's benefit payment history since the member's or beneficiary's last written notice.

## PUBLIC LAW 50 – SENATE ENROLLED ACT 355 – EFFECTIVE JULY 1, 2003

VOLUNTEER FIRE DEPARTMENTS – INDIANA BOND BANK – Amends IC 5-1.5-1-8- Allows volunteer fire departments to borrow from the Indiana Bond Bank.

## PUBLIC LAW 62 – HOUSE ENROLLED ACT 1106 – EFFECTIVE JULY 1, 2003

BASIC TRAINING REQUIREMENTS – VOLUNTEER FIREFIGHTERS – Amends IC 36-8-10.5-7-Requires the minimum basic training course to include an instruction course on vehicle emergency response driving safety. Removes the twenty-four (24) hour requirement for the course. Requires the state firefighter education board to adopt rules for the course.

## PUBLIC LAW 64 – HOUSE ENROLLED ACT 1647 – EFFECTIVE JULY 1, 2003

BUILDING LAWS – STATE BUILDING COMMISSION – Amends IC 22-13-5-2- States that the office of the State Building Commissioner may issue a written interpretation of a building law whether or not a municipality has taken any action to enforce the building law.

## PUBLIC LAW 66 – SENATE ENROLLED ACT 136 – EFFECTIVE JULY 1, 2003

ELECTIONS – Makes several changes to the laws on voter registration, party affiliation, recounts campaign finance, and other election laws in Title 3.

## PUBLIC LAW 68 – SENATE ENROLLED ACT 289 – EFFECTIVE JULY 1, 2003

CHANGE FROM TOWN TO A CITY PETITION REQUIREMENTS – Adds IC 36-4-1-4.1- Amends IC 36-4-1-4- States that a petition for a resolution to change from a town to a city must be signed by the number of registered voters of the town equal to ten percent (10%) of the total vote cast at the last election for secretary of state.

## PUBLIC LAW 69 – SENATE ENROLLED ACT 318 EFFECTIVE JULY 1, 2003

ELECTIONS – Adds IC 3-11-10-26.2- Amends IC 3-5-2-10, IC 3-8-2-7, IC 3-11-3-24 and IC 3-11-8- Makes several changes to the laws governing polling places and declaration of candidacy.

## PUBLIC LAW 77 – HOUSE ENROLLED ACT 1018 – EFFECTIVE JULY 1, 2003

KNOX COUNTY INNKEEPER'S TAX – Repeals IC 6-9-5-Repeals the Knox County Innkeeper's Tax. Changes the Knox County tax to the Uniform Innkeeper's tax under IC 6-9-18.

## PUBLIC LAW 78 – HOUSE ENROLLED ACT 1026 – EFFECTIVE APRIL 29, 2003

ABANDONED VEHICLES - Amends IC 9-22-1-19-Requires a city or town to notify the Bureau of Motor Vehicles within 72 hours after towing a vehicle or the city or town cannot initially collect more then the cost incurred for storage for 72 hours. A city or town may collect additional storage costs after notifying the Bureau.

## PUBLIC LAW 80 – HOUSE ENROLLED ACT 1104 – EFFECTIVE JULY 1, 2003

ALCOHOL AND DRUG SERVICES PROGRAMS – Amend IC 12-7-2-12- Allows persons against whom a complaint for an infraction is filed or judgment for an infraction is entered to be placed in an alcohol and drug services program.

## PUBLIC LAW 85 – HOUSE ENROLLED ACT 1425 – EFFECTIVE JULY 1, 2003

NSF CHECKS – Amends IC 35-43-5-5- Raises the maximum service charge that a holder or payee of a dishonored check may charge to the greater of twenty-seven dollars and fifty cents (\$27.50) or five percent (5%) but not more than two hundred fifty dollars ( \$250) of the amount due.

## PUBLIC LAW 86 – HOUSE ENROLLED ACT 1465 – EFFECTIVE JULY 1, 2003

HEALTH INSURANCE – 1925, 1937, AND 1977 RETIREMENT PLANS – Amends IC 5-10-8-2.2, IC 36-8-6, IC 36-8-7, IC 36-8-7.5 and IC 36-8-8- Adds IC 36-8-10-16.5 – Requires health insurance to be offered to a surviving spouse and certain children of a member who dies in the line of duty after December 31, 2003. The coverage must be equal to the coverage offered to active members, if health insurance is offered to active members.

## PUBLIC LAW 87 – HOUSE ENROLLED ACT 1482 – EFFECTIVE JULY 1, 2003

ABANDONED RAILROAD CROSSINGS – Adds IC 8-6-15- Amends IC 9-21-12-5- Requires the State Department of Transportation to determine if a railroad crossing is abandoned if requested by a city or town. Requires a sign stating “tracks out of service” to be posted at such abandoned crossings. Exempts school buses from the requirement to stop at such crossings.

## PUBLIC LAW 92 – HOUSE ENROLLED ACT 1902 – EFFECTIVE JULY 1, 2003

FRENCH LICK AND WEST BADEN SPRINGS RIVERBOAT – Allows for a riverboat to be located in Orange County.

## PUBLIC LAW 95 – HOUSE ENROLLED ACT 1089 – EFFECTIVE JULY 1, 2003

HIRING PREFERENCE – Adds IC 36-8-10-10.4- Amends IC 36-8-4-10- Adds a person whose mother or father was a firefighter or police officer who died in the line of duty as a hiring preference for city police and fire departments. This preference is a second priority following war veterans.

## PUBLIC LAW 100 – HOUSE ENROLLED ACT 1353 – EFFECTIVE JULY 1, 2003

BUILDING PERMIT FEES – Amends IC 36-4-6-14 and IC 36-5-2-10-

States that an ordinance increasing a building permit fee on new development must:

(1) be published:

(A) one (1) time in accordance with IC 5-3-1; and

(B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and

(2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published.

## PUBLIC LAW 107 – SENATE ENROLLED ACT 26 – EFFECTIVE JULY 1, 2003

UNCLAIMED PROPERTY – Amends IC 32-34-1-1 Changes the statutory reference for property held five (5) years by a court clerk from IC 32-34-1-20 ( c ) (7) to IC 32-34-1-20( c ) (6).

## PUBLIC LAW 108 – SENATE ENROLLED ACT 35 – EFFECTIVE JULY 1, 2003

TORT CLAIMS – MAXIMUM AGGREGATE LIABILITY – Amends IC 27-1-29-14 and IC 34-13-3-4- States that the combined aggregate liability of all governmental entities and for all public employees, acting within the scope of their employment and not excluded from liability, does not exceed:

(1) for injury to or death of one (1) person in any one (1) occurrence:

(A) three hundred thousand dollars (\$300,000) for a cause of action that accrues before January 1, 2006;

(B) five hundred thousand dollars (\$500,000) for a cause of action that accrues on or after January 1, 2006, and before January 1, 2008; or

(C) seven hundred thousand dollars (\$700,000) for a cause of action that accrues on or after January 1, 2008; and

(2) for injury to or death of all persons in that occurrence, five million dollars (\$5,000,000).

A governmental entity is not liable for punitive damages.

## PUBLIC LAW 109 – SENATE ENROLLED ACT 109 – EFFECTIVE JULY 1, 2003

REGULATION OF AMATEUR RADIO ANTENNAS – Adds IC 36-7-5.2-States that municipality may not enact or enforce an ordinance, a resolution, or an order that does not comply with the ruling of the Federal Communications Commission in “Amateur Radio Preemption, 101FCC 2d 952 (1985)” or a regulation related to the amateur radio service adopted under 47 CFR Part 97.

If a municipality adopts an ordinance, a resolution, or an order involving the placement, screening, or height of an amateur radio antenna based on health, safety, or aesthetic conditions, the ordinance, resolution, or order must:

(1) reasonably accommodate amateur radio communications; and

(2) represent the minimal regulation practicable to accomplish the municipality’s legitimate purpose.

This does not prohibit a municipality from taking action to protect or preserve a historic, a historical, or an architectural district that is established by the municipality or under state or federal law.

**PUBLIC LAW 111 – SENATE ENROLLED ACT 304 – EFFECTIVE JULY 1, 2003**

**TRANSFER OF COUNTY DRAIN TO MUNICIPALITY OR SANITARY DISTRICT** – Adds IC 36-9-27-20.5 and IC 36-9-27-20.6 – Provides that if a transfer of jurisdiction over a drain is transferred to a city or town or sanitary district all or part of the related drain maintenance fund, if established, can also be transferred to the city, town, or sanitary district.

**PUBLIC LAW 113 – SENATE ENROLLED ACT 365 – EFFECTIVE JANUARY, 2003**

**MEMBERS OF THE INDIANA NATIONAL GUARD – BENEFITS** - Adds IC 10-16-7-23 and IC 33-1-18 States that the rights, benefits and protections of the federal Uniformed Services Employment and Reemployment Rights Act and the federal Soldiers and Sailors' Civil Relief Act apply to members of the Indiana National Guard ordered to active duty for at least thirty (30) days.

**PUBLIC LAW 114 – SENATE ENROLLED ACT 438 – EFFECTIVE JULY 1, 2003**

**UNDERGROUND FACILITIES** – Adds IC 8-1-26-15.5 – Amends IC 8-1-26-15, IC 8-1-26-16, and IC 8-1-26-17- Requires cities and towns with underground utility facilities to be a member of the Indiana Underground Plant Protection Service after August 31, 2004. Provides that five members of the Service will be from cities and towns. Requires the Service to file with the county recorder all changes made to a city or town's underground facilities and to notify the city or town of any proposed excavation or demolition to any city or town's facilities when notified after referral from a county recorded.

**PUBLIC LAW 119 – HOUSE ENROLLED ACT 1808 – EFFECTIVE JULY 1, 2003**

**VOLUNTEER FIREFIGHTERS – NOMINAL COMPENSATION** – Amends IC 36-8-12-2- Raises the annual compensation considered nominal compensation from not more than \$10,000 to not more than \$20,000.

**PUBLIC LAW 126 – HOUSE ENROLLED ACT 1523 – EFFECTIVE JULY 1, 2003**

**PERF BENEFITS – NONCODE** – Requires the PERF Board to conduct a pilot program on member's investment selections beginning January 1, 2004.

**PUBLIC LAW 132 – SENATE ENROLLED ACT 215 – EFFECTIVE MAY 1, 2003**

**HIGHWAY WORKSITE ZONES – EMPLOYMENT OF OFF DUTY POLICE OFFICERS** – Amends IC 8-23-2-15- Removes the limitation on the number of hours an off duty police officer can patrol a work zone.

**PUBLIC LAW 133 – SENATE ENROLLED ACT 247 – EFFECTIVE MAY 1, 2003**

**DRUG COURTS** – Amends IC 12-23-14.5-3 and IC 12-23-14.5-15 – Requires a judge for a city or town drug court to be an attorney under IC 33-10.1-5-7. Allows for referrals to a drug court from another court located within the same county. Sets procedures for cases referred to another drug court. Requires judges in the Greenwood and Martinsville city courts to be attorneys in good standing.

**PUBLIC LAW 137 – SENATE ENROLLED ACT 503 – EFFECTIVE JULY 1, 2003**

**TRAIN WHISTLES – REGULATION** – Amends IC 8-6-4-1- States that an ordinance adopted after June 30, 2003, that prohibits the sounding of a whistle or the ringing of a bell at a crossing must require that signs be posted at the crossing to warn the public that trains do not sound whistles or ring bells at that crossing. Requires State Department of Transportation approval before adoption of the ordinance.

**PUBLIC LAW 144 – HOUSE ENROLLED ACT 1473 – EFFECTIVE JULY 1, 2003**

**MUNICIPAL LIENS ON REAL PROPERTY –COST OF CLEAN UP**– Amends IC 36-1-6-2- States that if the municipal corporation takes action to bring compliance, the expenses incurred by the municipal corporation to bring compliance constitute a lien against the property. The lien is superior to all other liens except liens for taxes, in an amount that does not exceed:

(1) two thousand five hundred dollars (\$2,500) for real property that:

(A) contains one (1) or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings; or

(B) is unimproved; or

(2) ten thousand dollars (\$10,000) for all other real property not described (1).

(See Public law 177 for more changes to this section of law.)

**PUBLIC LAW 146 – HOUSE ENROLLED ACT 1521 – EFFECTIVE JULY 1, 2003**

**DRIVER IMPROVEMENT COURSES** – Amends IC 9-30-3-16- States that a driver improvement course may be financed by assessing a reasonable charge as determined by the course provider and approved by the Bureau of Motor Vehicles. Eliminates the \$30 and \$40 limits for the charge for the course.

**PUBLIC LAW 150 – SENATE ENROLLED ACT 201 – EFFECTIVE JULY 1, 2003**

**BOARDS OF ZONING APPEALS** – Adds IC 36-7-4-1210.6- Amends IC 36-7-4-1003, IC 36-7-4-1005 and IC 36-7-4-1006 – Changes the procedures for filing a writ of certiorari. States that an advisory plan commission that is

(1) created through a joinder agreement; and

(2) composed of nine (9) members, some of whom are appointed from a legislative branch of a city or town.

Notwithstanding any other provision, if

(1) there is a vacancy in the membership of a plan commission that is required by statute to be filled by a member of the legislative body will accept an appointment to fill the vacancy; the appointing authority may appoint a person from the community who is not an elected official to serve on the advisory plan commission for a term of one (1) year.

The person appointed may be reappointed to successive terms.

**PUBLIC LAW 156 – SENATE ENROLLED ACT 311 – EFFECTIVE JULY 1, 2003**

**CRIMINAL HISTORY CHECKS** – Amends IC 5-2-5-1, IC 5-2-5-7, IC 5-2-7-1, and IC 10-13-3 Provides that a law enforcement agency may only release criminal history information if it has properly reported arrests to the State Police.

**PUBLIC LAW 157 – HOUSE ENROLLED ACT 1171 – EFFECTIVE JULY 1, 2003**

**ACCIDENT REPORTS** – Amends IC 9-25-7-1, IC 9-25-8-2, IC 9-26-1-2 and IC 9-26-2-1-Requires law enforcement officers to investigate accidents where property damage is greater than \$1,000 and requires a driver of vehicle to file a written report with the Bureau of Motor Vehicles for such property damage accidents.

**PUBLIC LAW 159 – HOUSE ENROLLED ACT 1469 – EFFECTIVE JULY 1, 2003**

**ENERGY EFFICIENT TECHNOLOGY** – Adds IC 4-13.6-9, IC 5-16-12.2 and IC 36-1-12.7 – Requires the contracting board to consider the use of energy efficient technologies whenever planning a public work project.

**PUBLIC LAW 161 – HOUSE ENROLLED ACT 1620 – EFFECTIVE JULY 1, 2003**

**TORT CLAIMS LIABILITY** – Amends IC 34-13-3-4, IC 34-13-3-5, IC 34-13-4-1 and IC 35-42-4-7

States that a governmental entity or an employee of a governmental entity acting within the scope employment is not liable for punitive damages. Allows for the payment of punitive damages in a settlement if it is determined it is in the best interest of the city or town.

**PUBLIC LAW 165 – HOUSE ENROLLED ACT 1010 – EFFECTIVE JULY 1, 2003**

**NORTHWESTERN INDIANA REGIONAL PLANNING COMMISSION** – Adds IC 36-7-7.6

Establishes the powers and duties of the Commission. Replaces the entire law dealing with the Commission.

**PLAN COMMISSIONS EXECUTIVE DIRECTORS** – Amends IC 36-7-7- Requires all area Commissions to use the same process to appoint a director.

**PUBLIC LAW 166 – HOUSE ENROLLED ACT 1019 – EFFECTIVE JULY 1, 2003**

**INSURANCE COVERAGE** – Adds IC 27-1-3-30, IC 27-13-7-18, and IC 27-8-24.1- Requires insurance policies to cover medical food for certain inherited metabolic diseases.

**PUBLIC LAW 167 – HOUSE ENROLLED ACT 1047 – EFFECTIVE JULY 1, 2005**

**SMALL CLAIMS ACTIONS** – Amends IC 33-4-3-7, IC 33-5-2-4, IC 33-10.1-6-10, IC 33-19-5-5, and IC 33-19-7-4 – Raises the jurisdiction of a small claims action from \$3,000 to \$6,000. Establishes a small claims service fee of \$5 on each small claims action beginning July 1, 2005.

**PUBLIC LAW 170 – HOUSE ENROLLED ACT 1161 – EFFECTIVE JULY 1, 2003**

**SALE OF REAL ESTATE** – Amends IC 36-1-11-5 and IC 36-10-3-23 – Raises the assessed value from \$5,000 to \$15,000 on land which may be sold in accordance with the abutting landowner sale law. Raises the assessed value from \$2,000 to \$6,000 where a tract of land to be offered for sale has to be appraised. Changes the number of appraisals required from three to two for the sale of park land.

**PUBLIC LAW 173 – HOUSE ENROLLED ACT 1242 – EFFECTIVE JULY 1, 2003**

**PUBLIC DEPOSITORY LAW** – Amends IC 5-13-8-9 and IC 5-13-9-4 – Moves the criteria for determining how many banks to deposit public funds from IC 5-13-9-4 to IC 5-13-8-9.

**INVESTMENT CASH MANAGEMENT SYSTEM** – Adds IC 5-13-11-2.5 – Allows an investment cash management contract to be renewed under the same or better terms as the original contract. The term of the renewal cannot be longer than the term of the original contract. Allows for multiple renewals of the contract.

**LIST OF CITY OR TOWN EMPLOYEES** – Amends IC 5-14-3-3- States that lists of employees may not be disclosed to commercial entities for commercial purposes.

**PUBLIC RECORDS LAW** – Amends IC 5-14-3-4- Moves the requirement that a utility customer's telephone number, social security number, and address be kept confidential from IC 5-14-3-4 (a)(11) to IC 5-14-3-4 (b)(20). Makes certain information confidential if it is assembled to prevent or respond to acts of terrorism. Requires consultation with the state counterterrorism and security council if a request for such records is made.

**TRANSFERS OF APPROPRIATIONS** – Amends IC 6-1.1-18-6- Removes the requirement to report transfers of appropriations to the County Auditor.

**APPROPRIATION OF INSURANCE CLAIM PROCEEDS** – Amends IC 6-1.1-18-7 – Allows the fiscal officer to appropriate funds received from an insurance company if the funds are used to repair or replace damaged city or town property.

**LOCAL ROAD AND STREET ANNUAL REPORTS** – Amends IC 8-17-4.1 - Changes the due date of the report from February 15 to June 1 for those cities and towns with a population of 20,000 or more. Requires the State Board of Accounts to prescribe a more streamlined report to ease preparation of the report.

**CREDIT CARDS – COURTS** – Adds IC 33-19-6.5- Allows the clerk of a city or town court to contract with a bank or credit card vendor for acceptance of bank or credit cards in payment of court fees. Requires any transaction charges or discount fees to be paid by the person using the card. The fee is in addition to required court costs and fees. All credit card fees collected by a court are to be remitted to the controller or clerk-treasurer who may use the funds to pay the card vendor for any charges without appropriation.

**CREDIT CARDS – BAIL** – Adds IC 35-33-8-9 and IC 35-33-9-7- Requires defendants who post bail by means of a credit card to pay the credit card service fee under IC 33-19-6.5.

**RAINY DAY FUND** – Amends IC 36-1-8-5 and IC 36-1-8-5.1 – Requires an ordinance specifying the purposes and sources of funding of the rainy day fund in order to establish the fund. Allows for subsequent amendments of the ordinance. Requires such fund to be appropriated in the same manner as other funds receiving tax money. Limits the amount that can be transferred to the fund to 10% of the city or town's annual budget adopted under IC 6-1.1-17. States that transfers to the fund must be made between January 1 and before March 1. States that the Department of Local Government Finance cannot reduce the actual or maximum levy of a city or town as a result of a balance in the rainy day fund.

**CREDIT CARDS** – Amends IC 36-1-8-11- Allows cities, towns and utilities to collect bank or credit card charges from taxpayers and utility customers who use credit cards to pay for services offered by cities,

towns and utilities.

**SOUTH BEND – MISHAWAKA - CITY TREASURER – FIRE PENSION FUND BOND** - Amends IC 36-2-7-9, IC 36-4-6-19, IC 36-8-6-2, IC 36-8-6-3, IC 36-8-7-10, IC 36-8-7-20 and IC 36-8-7-23- Deletes the requirement that the county treasurer act as city treasurer for the cities of South Bend and Mishawaka. Requires surety bond coverage for fiscal officers acting as treasurer of the 1937 Fire Pension Plan.

**ANNEXATION** – Amends IC 36-4-3-5, IC 36-4-3-11, IC 36-4-3-13 and IC 36-4-3-16 Deletes subsections pertaining to St. Joseph County annexation procedures.

**CITY PUBLIC SAFETY OFFICERS' SALARIES** –Amends IC 36-8-3-3- Requires the annual compensation of all members of the police and fire departments and other appointees to be fixed by ordinance before September 20 in second class cities.

**HAZARDOUS MATERIALS RESPONSE FUND** – Adds IC 36-8-12.2-8.1 – Amends IC 36-8-12.2-8 – Allows a city or town with a fire department to establish by council ordinance or resolution a hazardous materials response fund for deposit of charges for clean up of hazardous materials spills or allows such fees to be deposited in the general fund. The money may only be used for:

- (1) Purchase of supplies and equipment used in providing hazardous materials emergency assistance
- (2) Training for members of the fire department in skills necessary for providing hazardous materials emergency assistance.
- (3) Payment to persons with which the fire department contracts to provide service related to the hazardous materials emergency assistance provided by the fire department.

The hazardous materials response fund shall be administered by the unit's fiscal officer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund.

**PUBLIC LAW 174 – HOUSE ENROLLED ACT 1243 – EFFECTIVE JULY 1, 2003**

**SEWER LIENS** – Amends IC 36-9-23-33- Requires sewer liens to be certified to the county auditor not later than ten (10) days after recording the liens.

**PUBLIC LAW 175 – HOUSE ENROLLED ACT 1358 – EFFECTIVE JULY 1, 2003**

**COMMUNITY POLICING VOLUNTEERS** – Adds IC 35-41-4.7- Amends IC 35-42-2-1 and IC 35-45-2-1 Defines a community policing volunteer as a person who is not a law enforcement officer who actively participates in a place established by a law enforcement agency in which citizens participate to reduce or prevent crime in a defined geographic area. Makes it a penalty to assault volunteers.

**PUBLIC LAW 177 – HOUSE ENROLLED ACT 1378 – EFFECTIVE JULY 1, 2003**

**ABANDONED PROPERTY** – Amends IC 36-1-6-2, IC 36-7-9-2, IC 36-7-9-5, IC 36-7-9-7, IC 36-7-9-17, IC 36-7-9-20, IC 36-7-9-26, IC 36-7-15.1-15.1, IC 36-7-17-2, IC 36-7-17-7 and IC 36-7-17-9- Allows a community organization to file civil actions for compliance with ordinances if allowed by a city or town. Requires 10 to 60 day notice period for all persons holding a substantial interest in property which is in violation of a local ordinance before a city or town can take action to bring compliance. Gives the owner of such property 30 days before a lien can be filed with the county auditor where the owner failed to pay for clean up costs. (see Public law 144 for similar changes.)

**PUBLIC LAW 183 – HOUSE ENROLLED ACT 1445 – EFFECTIVE JULY 1, 2003**

**1977 POLICE AND FIRE PENSION PLAN** – Adds IC 36-8-8-17.2 - Amends IC 5-10.3-3-8 and IC 36-8-8-17 – Allows for certain insurance, dues, and charity deductions to be made from a retiree's benefit if authorized by the retiree beginning July 1, 2004.

**PUBLIC LAW 185 – HOUSE ENROLLED ACT 1519 – EFFECTIVE MAY 7, 2003**

**RIVERBOAT DISTRIBUTIONS** – Amends IC 4-33-13-5- Allows wagering taxes received by cities and towns without riverboats to be used for any government purpose for which money can be appropriated by the city or town. States that such revenue does not reduce the maximum levy of the city or town.

**PUBLIC LAW 189 – HOUSE ENROLLED ACT 1558 – EFFECTIVE JULY 1, 2003**

**UNEMPLOYMENT COMPENSATION** – Amends IC 22-4-11, IC 22-4-15, IC 22-4-17 and IC 22-4-18 – States that a person cannot be disqualified from receiving benefits if the person voluntarily left employment or was discharged due to circumstances directly caused by domestic or family violence.

**PUBLIC LAW 190 – HOUSE ENROLLED ACT 1573 – EFFECTIVE JULY 1, 2003**

**PERF BENEFICIARIES** - Adds IC 5-10.2-5-33 and IC 5-10.2-5-34- Amends IC 5-10.2-3 and IC 5-10.2-4 – Makes several changes to the procedures used by a member to designate beneficiaries of benefits.

**PUBLIC LAW 199 – SENATE ENROLLED ACT 120 – EFFECTIVE MAY 7 AND JULY 1, 2003**

**EMPLOYMENT OF MINORS** – Adds IC 20-8.1-4-25.5 – Amends IC 20-8.1-4-20.5 – Makes it unlawful to employ a child less than 18 years of age after 10 P.M. and before 6 A.M. unless another employee at least 18 years of age also works during the same hours as the child. Requires children under 18 years of age who are scheduled to work six consecutive hours to be provided one or two rest breaks totaling at least 30 minutes.

**PUBLIC LAW 203 – SENATE ENROLLED ACT 207 – EFFECTIVE JULY 1, 2003**

**BROWNFIELD DEFINITION** – Amends IC 13-11-2-19.3 – Changes the definition of a brownfield to mean a parcel of real estate:

(1) that:

(A) is abandoned or inactive; or

(B) may not be operated at its appropriate use; and

(2) on which expansion, redevelopment, or reuse is complicated;

because of the presence or potential presence of a hazardous substance, a contaminant, petroleum, or a petroleum product that poses a risk to human health and the environment.

**PUBLIC LAW 205 – SENATE ENROLLED ACT 216 – EFFECTIVE MAY 7 AND JULY 1, 2003**

**EMERGENCY MEDICAL SERVICES** – Amends several sections of law in Title 16 and adds several new sections in Titles 10 and 16. Provides for a statewide mutual aid program. Allows a city or town to opt out of the program if it passes an ordinance or resolution declaring it will not participate. Sets regulations for holding emergency medical technician and paramedic licenses and emergency dispatcher licenses. Makes numerous changes to the State Emergency Management Agency's laws on licensing emergency personnel.

**PUBLIC LAW 209 – SENATE ENROLLED ACT 268 – EFFECTIVE MAY 7 AND JULY 1, 2003**

**ELECTIONS** – Amends and adds several sections in Title 3 to bring Indiana election laws in compliance with the Help America Vote Act of 2002.

**PUBLIC LAW 220 – SENATE ENROLLED ACT 475 – EFFECTIVE JULY 1, 2003**

**INVESTMENTS** – Amends IC 5-13-9-2 - Repeals IC 5-13-9-2.4 – Allows for the investment in securities fully guaranteed and issued by any federal agency federal instrumentality or federal government sponsored enterprise. Removes the requirement to obtain annual approval of the fiscal body before making investments in money market mutual funds.

**PUBLIC LAW 223 – SENATE ENROLLED ACT 523 – EFFECTIVE JULY 1, 2003**

**1977 POLICE AND FIRE PENSION FUND – NONCODE** – Allows for the purchase of additional service credits in certain circumstances.

**PUBLIC LAW 224 – HOUSE ENROLLED ACT 1001 – EFFECTIVE JULY 1, 2003**

**STATE BUDGET BILL** – Makes appropriations for State government for the next two years.

Appropriates \$33 million dollars of wagering taxes for distribution to cities, towns, and counties and retains the January 1, 2003 three cent increase in gas taxes.

**JOINT INVESTMENT FUND** – Adds IC 5-13-9-10- Allows investing officers of two or more political subdivisions located within the same county to establish a joint investment fund. A joint board, made up of each participating investing officer, shall administer the fund.

## PUBLIC LAW 224 – CONTINUED

IDEM SAFE DRINKING WATER ACT FEES – Adds IC 13-18-20.5 – Requires payment of annual operation fees to IDEM to be phased in over the next three years. Fees vary by the size of the water utility. The fees, of which one third will be due in 2004, two-thirds in 2005, and the full amount in 2006, are as follows;

- (1) For a community water system with more than four hundred (400) service connections, ninety-five cents (\$0.95) per service connection.
- (2) For a community water system with four hundred (400) or fewer service connections, the annual operation fee is three hundred fifty dollars (\$350).
- (3) For a nontransient noncommunity water system, the annual operation fees are as follows:

Number served	Fee
25 – 100	\$150
101 – 250	\$180
251 – 500	\$240
501 – 1,000	\$300
1,001 – 3,300	\$450
3,301 – 5,000	\$600
5,001 – 10,000	\$1,500
more than 10,000	\$3,000

- (4) For a transient noncommunity water system, the annual operation fees are as follows:

Type of transient	Fee
Noncommunity water system	
Groundwater	\$100
Purchase	\$50
Surface	\$200

## PUBLIC LAW 226 – HOUSE ENROLLED ACT 1135 – EFFECTIVE JULY 1, 2003

INSURANCE POLICIES – SUBSTANCE ABUSE AND CHEMICAL DEPENDENCY COVERAGE – Amends IC 27-8-5-15.6 and IC 27-13-7-14.8 – States that an insurer or health maintenance organization that issues a policy or provides coverage for the treatment of substance abuse and chemical dependency when the services are required in the treatment of a mental illness shall offer to provide the coverage without treatment limitations or financial requirements if similar limitations or requirements are not imposed on the coverage of services for other medical or surgical conditions.

## PUBLIC LAW 230 – HOUSE ENROLLED ACT 1219 – EFFECTIVE MAY 7, 2003

PROVISIONAL TAX STATEMENTS – TAX SETTLEMENTS – Amends IC 6-1.1-27-1- Allows for counties to send out tax statements in 2003 based on the 2002 tax liability. Requires settlements to be made on or before the fifty-second day immediately following the property tax due date.

## PUBLIC LAW 232 – HOUSE ENROLLED ACT 1325 – EFFECTIVE JULY 1, 2003

COMPLAINT AGAINST A LAW ENFORCEMENT OFFICER – Amends IC 35-44-2-2- Makes it a class A or B misdemeanor to file a false complaint against a law enforcement officer.

## PUBLIC LAW 234 – HOUSE ENROLLED ACT 1410 – EFFECTIVE JULY 1, 2003

REPORTS OF DISASTERS – Amends IC 22-8-1.1-43.1- Allows the State Commissioner of Labor to adopt rules requiring all employers having 11 or more employees to report disasters to the State within 8 hours if 3 or more persons are injured.

## PUBLIC LAW 245 – HOUSE ENROLLED ACT 1714 – EFFECTIVE JULY 1, 2003

PROPERTY TAXES – Amends several sections of Title 5, 6 and 36 – Requires a county treasurer to advance property taxes to a city or town not later than 30 days after receipt of a written request for funds. Makes several changes to property assessment laws including economic revitalization areas and enterprise zone inventories. Requires a general reassessment begin July 1, 2007, and each fourth year thereafter.

## PUBLIC LAW 250 – HOUSE ENROLLED ACT 1738 – EFFECTIVE JULY 1, 2003

SALE OF TOBACCO TO MINORS – Amends IC 35-46-1-10.2- Makes it a class B infraction to violate the state's sale of tobacco to minors law at least six times in a six month period.

**PUBLIC LAW 252 – HOUSE ENROLLED ACT 1788 – EFFECTIVE JULY 1, 2003**

**SALE OF TOBACCO TO MINORS** – Amends IC 7.1-3-18.5-7, IC 7.1-6-2-6, IC 7.1-6-2-8, IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.3, IC 35-46-1-11.5 and IC 35-46-1-11.7 – Changes the name of the youth tobacco fund to the Richard D. Doyle youth tobacco education and enforcement fund. All civil penalties collected for violation of the sale of tobacco to minors laws are to be deposited into this fund which is administered by the alcoholic beverage commission.

**PUBLIC LAW 254 – HOUSE ENROLLED ACT 1811 – EFFECTIVE JULY 1, 2003**

**ENTERTAINMENT FACILITY ADMISSIONS TAX** – Adds IC 6-9-34 – Allows a city with a privately owned outdoor entertainment facility that seats a least 10,000 to impose an admissions tax for the privilege of attending events. Requires the city fiscal officer to deposit the tax in a city ticket tax fund. Limits use of the fund to costs associated with improvements to infrastructure serving the facility.

**PUBLIC LAW 256 – HOUSE ENROLLED ACT 1814 – EFFECTIVE JULY 1, 2003**

**PROPERTY TAXES** – Amends numerous sections of the Indiana Code relating to property taxation. Makes several changes to the laws governing the Department of Local Government Finance.

**PUBLIC LAW 260 – HOUSE ENROLLED ACT 1933 – EFFECTIVE JULY 1, 2003**

**MILITARY LEAVE** – Amends IC 10-5-8-1, IC 10-5-9-1, IC 10-17-4-1 and IC 10-17-4-4 – Adds corresponding statutory references to the laws governing military leave.

**PUBLIC LAW 261 – HOUSE ENROLLED ACT 1935 – EFFECTIVE MAY 8 AND JULY 1, 2003**

**OPEN DOOR LAW** – Amends IC 5-14-3-3 – Makes changes to confidentiality laws on employee lists and anti-terrorism documents. (See digest of Public Law 173 for similar changes.)

**PUBLIC LAW 267 – SENATE ENROLLED ACT 166 – EFFECTIVE VARIOUS DATES**

**CAGIT, COIT, CEDIT DISTRIBUTIONS** – Amends several sections of IC 6-1.1-18, IC 6-1.1-21.8, IC 6-3.5-1.1, IC 6-3.5-6, IC 6-3.5-7 and IC 36-1-8-5.1- Changes the manner for computing and distributing CAGIT, COIT AND CEDIT taxes. Requires supplemental distributions in excess of certified distributions to be deposited in the city or town's rainy day fund.

**PUBLIC LAW 269 – SENATE ENROLLED ACT 422 – EFFECTIVE VARIOUS DATES**

**TAXATION – UTILITY RECEIPTS TAX – ENTERPRISE ZONES** – Amends several sections in IC 6-2.3, IC 6-3, IC 6-3.1 and IC 6-5.5 – Makes several corrections to the estimated payments laws.

**PUBLIC LAW 272 – SENATE ENROLLED ACT 464 – EFFECTIVE MAY 8 AND JULY 1, 2003**

**PROPERTY TAXES –ENTERPRISE ZONES – NONCODE** – Allows for enterprise zone credit to taxpayers who filed applications for the credit after the due date.

**PUBLIC LAW 273 –SENATE ENROLLED ACT 486 – EFFECTIVE JULY 1, 2003**

**UNEMPLOYMENT COMPENSATION** – Amends IC 22-4-4.3- Increases the amount of wage credits beginning July 1, 2003.

**PUBLIC LAW 275 – SENATE ENROLLED ACT 494 – EFFECTIVE JANUARY 1, 2003**

**RETROACTIVE – UTILITY RECEIPTS TAX** – Amends IC 6-2.3-4-3- Exempts municipal wastewater utilities from the utility receipts tax retroactive to January 1, 2003.

**PUBLIC LAW 277 – SENATE ENROLLED ACT 506 – EFFECTIVE JULY 1, 2003**

**PROBATION USER FEES** – Adds IC 31-40-1-1.7, IC 31-40-2-1.5, IC 33-10-6-5, IC 35-33-9-7, IC 35-38-2-1, IC 35-38-2-1.7 and IC 36-2-16.5 – Amends IC 11-13-1-1, IC 31-40-2-1 and IC 35-38-2-1 – States that a city or town fiscal body shall fix the salaries of probation officers in consultation with a judge and probation officer. The salary schedule must comply with the minimum compensation requirements for probation officers adopted by the Judicial Conference of Indiana under IC 11-13-1-8. Allows for a person to pay user fees before the person is required to make payment. If a person is discharged from the program before the date of scheduled release, any payments made in advance may not be refunded. Allows a court to garnish wages and order a person's driver's license suspended where user fees are not paid. Raises monthly adult probation fees to a fee of not less than \$15 nor more than \$30 per month and

**PUBLIC LAW 277 - Continued**

creates an administrative fee of \$100 for felonies and not less than \$10 nor more than \$20 per month and an administrative fee of \$50 for persons convicted of misdemeanors. Allows such fees to be paid to the probation department or court clerk. Allows a probation department or court clerk to contract with a bank or credit card vendor for acceptance of bank or credit cards in payment of probation fees. If there are vendor transaction charges or discount fees, the probation department or court clerk may collect a credit card service fee from persons placed on probation. Such fee is in addition to court costs and fees and must be forwarded to the controller or clerk-treasurer and may be used without appropriation to pay the transaction charges or discount fees charged by a bank or credit card vendor. Requires administrative fees to be used to pay for salary increases for probation officers.

If a clerk of a court collects a probation user's fee, the clerk:

(1) may keep not more than three percent (3%) of the fee to defray the administrative costs of collecting the fee and shall deposit any fee kept under this subsection in the clerk's record perpetuation fund established under IC 33-19-6-1.5; and

(2) if requested to do so by the city fiscal officer or town fiscal officer, transfer not more than three percent (3%) of the fee to the city general fund when requested by the city fiscal officer; or town general fund when requested by the town fiscal officer.

**GARNISHMENT OF SALARIES AND WAGES**

An employee who is required to make deductions from an employee's pay due to a garnishment order may impose a fee equal to the greater of twelve dollars (\$12) or three percent (3%) of the total amount deducted.

If the fee is imposed, one-half may be deducted directly from the employee's pay and one-half may be retained by the employer from the amount otherwise due the creditor. These deductions do not increase the amount of the judgment debt for which the fee is collected.

We suggest you have your city or town attorney review IC 24-4.5-5-105 and also refer them to several Attorney General official opinions (No. 72-10, 80-7 and 80-29) on this same subject.

**INTEREST ON PAYMENTS FOR ROAD WORK**

IC 36-1-12-17 requires that each contract for roadwork must provide for final payment within one hundred twenty (120) days after final acceptance and completion of the contract. Final payment may not be made on any amount that is in dispute, but final payment may be made on that part of a contract or those amounts that are not in dispute.

For each day after one hundred twenty (120) days, the city or town shall pay to the contractor interest for late payment of money due to the contractor. However, interest may not be paid for those days that the delay in payment is not directly attributable to the municipality. The annual percentage rate of interest on the unpaid balance is twelve percent (12%).

**RECORD OF HOURS WORKED**

For officers and employees of cities and towns who are employed by more than one (1) public agency or in more than one (1) position by the same public agency, detailed time records are to be maintained for the hours worked for each public agency or each position at the same public agency. (IC 5-11-9-4)

In cities and towns where time cards are not used, this requirement can be met by preparing an endorsement on the payroll claim form showing the general work schedule and listing the specific affected employees who worked hours different from that general work schedule. Each elected office or head of each department would be responsible for preparing such endorsement on the payroll claim for their office or department.

**RECORD OF HOURS WORKED**

(Continued)

Another alternative is to add a statement on each affected Employee's Service Record, General Form 99A (1985) and/or Employee's Earning's Record, General Form 99B (1993) indicating the specific hours to be worked daily by that employee or official. (Example 8 a.m. to 4 p.m.)

It is our audit position that this requirement would not apply to a city or town officer or employee whose compensation is paid from more than one source of funds because their duties require a percentage of their time be spent at serving more than one department or utility.

**INTEREST ON PUBLIC CONTRACTS WHEN NOT PAID TIMELY**

IC 5-17-5 provides that every "political subdivision shall pay interest at the rate of one percent (1%) per month on amounts due on written contracts for public works, personal services, goods and services, equipment, and travel, whenever the . . . political subdivision fails to make timely payment."

Payment made by a political subdivision is timely if:

- (1) a date for payment is not specified in an applicable contract;
- (2) a claim;
  - (A) for payment for goods or services; and
  - (B) that must be approved by a local legislative body or board; is submitted to the body or board; and
- (3) the political subdivision pays the claim within thirty-five (35) days following the first regularly scheduled meeting of the body or board that is held at least ten (10) days after the body or board receives the claim.

The interest requirement does not apply to the following:

- (1) Interagency or intergovernmental transactions.
- (2) Amounts payable to employees or prospective employees of state agencies or political subdivisions as reimbursement for expenses.
- (3) Claims subject to a good faith dispute, if before the date of timely payment notice of the dispute is:
  - (A) Sent by certified mail;
  - (B) Personally delivered; or
  - (C) Sent in accordance with the procedure in the contract.
- (4) Contracts entered into before September 1, 1983.
- (5) Contracts related to highway or road construction, reconstruction, or maintenance, if:
  - (A) The Indiana Department of Transportation authorizes partial progress payments under IC 8-23-9-14; and
  - (B) Each progress payment does not exceed five hundred dollars (\$500).
- (6) Claims, contracts, or projects that are to be paid for exclusively with federal funds.
  - (A) As used in IC 5-17-5-2 (a) (3), "good faith dispute" means:
    - (1) A contention by the state or political subdivision that goods delivered or services rendered were:
      - (A) Of less quantity or quality than ordered or specified by contract;
      - (B) Faulty; or
      - (C) Installed improperly; or
    - (2) Any other reason giving cause for the withholding of payment by the state or political subdivision until such dispute is settled.

**ALLOWANCE OF CITY CLAIMS – WHO SHOULD APPROVE**

From present city administration statutes, IC 36-4-8, Home Rule, IC 36-1-3, and inferences contained in the old, repealed statutes, (IC 18-1-20-1), we formulated the following audit position. The State Board of Accounts will not challenge the authority for either the Board of Public Works and Safety or the Common Council

**ALLOWANCE OF CITY CLAIMS – WHO SHOULD APPROVE**  
(Continued)

to approve and allow city claims. (Presently in a few cities, both groups are reviewing claims.) This refers to those claims not required, by statute, to be reviewed and allowed by some other city department or city agency.

In those few instances where there is a dispute regarding who has this authority, we feel the Common Council has authority, by ordinance, to delegate this authority to a city body such as the Board of Public Works and Safety or themselves or, with continued dispute, pursuant to IC 36-4-4-5, the question can be presented to a court of competent jurisdiction.

**ALLOWANCE OF WATER, GAS & ELECTRIC UTILITY CLAIMS**

It is our audit position that the Common Council may, by ordinance, provide for the control of any or all of its municipal utilities by:

- 1) the municipal works board;
- 2) a board consisting of the members of the municipal legislative body;
- 3) a utility service board; or
- 4) the board of directors of a department or waterworks (IC 8-1.5-3-3)

As to which governing body approves the claims for a municipal utility, we feel the board given the control in the aforementioned ordinance should approve the claims.

**WASTEWATER UTILITY DEPOSITS**

For those cities and towns that require wastewater utility deposits, the amount of the deposit required may not exceed the average payment due from the property served by the sewage works for a three (3) month period. A wastewater utility is not required to pay interest on any amounts refunded and a wastewater utility may retain any deposits remaining for more than seven (7) years after termination of service. (IC 36-9-23-28)

**COST SAVING INCENTIVE PROGRAM**

Cities and towns may establish a cost saving incentive program to develop and implement cost saving measures. The program may include awards to employees who suggest cost saving measures and must be established by ordinance. (IC 36-1-13)

**SALE OF TOBACCO TO MINORS – PENALTIES**

IC 7.1-6-2 and IC 35-46-1 lists specific penalties for selling tobacco products to persons under eighteen (18) years of age. Such penalties, if collected by a court, are to be receipted to a city or town court's trust records and sent to the Alcoholic Beverage Commission.

**STATE GAMING FUND – REVENUE SHARING**

Before August 15, 2003, the State will distribute wagering taxes to the county treasurer of each county that does not have a riverboat. The county treasurer will distribute the money to each city and town in the county based upon population. IC 4-33-13-6 requires such distributions to be placed in the city or town's general fund or riverboat fund, or both. The distributions may be used to carry out any governmental purpose for which money is appropriated by the city or town's fiscal body.